

before the Board of Zoning Adjustment D. C.

Application No. 12331 of Inez Cushard for permission to establish a parking lot. The property is in the R-2 District at 4926 Wisconsin Avenue, N.W., Lot 30, Square 1671. Filed pursuant to Sub-section 8207.2 of the Zoning Regulations for a special exception under Sub-section 3101.48.

HEARING DATE: April 20, 1977

DECISION DATE: May 17, 1977

FINDINGS OF FACT:

1. The subject lot is an alley lot located in the R-2 District. It presently serves as accessory parking for commercial buildings on Lots 20 and 21, Square 1671, having the addresses of 4922 and 4926 Wisconsin Avenue, N. W. The commercial buildings are in a C-2-A (commercial) zone and located between Ellicott and Fessenden Streets, N. W.

2. The Board finds that the subject lot has been used as an accessory parking lot for over twenty-five years. Prior to 1958, such lots were permitted as a matter of right up to 1936, and thereafter required Board of Zoning Adjustment approval.

3. It has been the owner's understanding for the twenty-five years in which the parking lot has been in operation that it was in complete accordance with the Zoning Regulations. The Board finds that the owner had even received a permit for fencing in the lot from the District of Columbia. The applicant was recently advised that the lot does not have the required certificate of occupancy and must receive approval by the Board before she can obtain one.

4. (a) The parking lot contains spaces for approximately thirty (30) cars, which will be leased exclusively by the tenant of 4922 and 4926 Wisconsin Avenue, N. W. Those tenants are as follows: National Detective Agency, Pickett Automobile Supply, Past and Present Shop subleased to Herbert Kaufmann, C.P.A., trading as Wisconsin Avenue Health Club, Inc. Provisions are made in the leases with the tenants of the commercial properties for the leasing of off-street parking spaces on parking lot. This has been a continuation of the past lease for over twenty-five years.

(b) The commercial lots served by the accessory parking have very little space at the rear which could be used for off-street parking; yet they have sizeable gross floor areas devoted to commercial usages. Accordingly, there is a need for parking and the parking is provided on Lot 30. Otherwise the tenants would have to use on-street parking.

5. By plat of subdivision recorded in Book 67, page 2 in the Office of Surveyor, Lot 30, Square 1671, was created.

6. Prior to 1958 the subject property was zoned Residential A - Restricted. Pages 10, 32, 41 and 43 from the pre-1958 Zoning Regulations show that parking spaces on an alley lot recorded on the records of the Surveyor of the District of Columbia, January 1, 1928, were permitted in an A - Restricted district.

7. Correspondence from the Department of Finance and Revenue placed into the record by the applicant shows that the property has been vacant since at least 1967, with the use being noted as parking lot.

8. The property was conveyed to the present owner by deed recorded January 31, 1946.

9. Section 3101.411 of the Zoning Regulations permits accessory passenger automobile parking spaces elsewhere than on the same lot or part thereof on which the main use is permitted, except for one-family dwellings, with certain conditions. The subject lot, as previously stated, has been used over twenty-five years as a parking lot serving the tenants of 4922 and 4926 Wisconsin Avenue, N. W. The leases for the commercial space include provisions for the tenant parking.

10. The parking spaces will be in an open area located within their entirety with 200 feet of the area to which they are separated only by an alley from the main lots.

11. The evidence shows that it is economically impractical to locate parking spaces within the principal buildings or on the same lot because of the restricted size of the lot caused by adverse adjoining ownership and substantial improvements on such lot. The Board notes that strip zoning along Wisconsin Avenue does not extend to a depth that includes the alley lot.

12. The Board finds that all provisions of Article 74 regarding parking lots will be complied with. The lot is already paved and will be brought up to standard. The applicant proposes to construct a masonry wall and chain link steel-post enclosure for the property. In response to comments made by neighbors and neighborhood groups, an agreement has been entered into with a caretaker to clean the lot three days per week.

13. The parking spaces are so located and all facilities in relation thereto are so designed that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions. Because this is an alley lot, under the Zoning Regulations it cannot be put to any R-2 residential use. Through the new design of the lot and its masonry wall and chain link steel-post enclosure, the parking area, which serves approximately thirty cars, will not have an objectionable effect on surrounding properties. The access will be adequate for the lot and garage facilities. The rear yards of commercial buildings and residential buildings are separated from the lot by a 15-foot public alley. Some of the residential properties have garages in their rear yards.

14. The Municipal Planning Office, in connection with the application filed under Section 3101.43 as BZA Application No. 12095, recommended approval of the application provided a screen wall is erected as required by Sub-section 7404.21, and that the lot is kept free of refuse and debris. At the public hearing in this case the Municipal Planning Office recommended approval on the same basis.

15. Interested persons and Mrs. Jamison of Friendship Neighborhood Coalition supported the continuation of the lot provided applicant constructs a masonry wall and chain link steel-post enclosure for the property and the lot is kept free of debris and refuse.

CONCLUSIONS OF LAW:

The Board is of the opinion that the continuation of this parking lot meets the requirements of Section 3101.411, subject to the conditions hereinafter set forth. Additionally, the granting of this special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Maps. Accordingly, it is ORDERED that the application is GRANTED subject to the following CONDITIONS:

a. The grant of this special exception is for a period of ONE YEAR (1) and shall be subject to renewal in the discretion of the Board upon the filing of a new application.

b. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.

c. The applicant will construct a masonry wall 42 inches high and will install a chain link steel-post perimeter enclosure for the sides nearest the commercial zoning in accordance with the revised site plan filed on May 9, 1977.

d. No vehicle, or any part thereof, shall be permitted to project over any lot or building line or on or over the public space.

e. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped.

f. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.

g. Any lighting used to illuminate the parking lot or any accessory building erected thereon shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE:

3-0 (William F. McIntosh, Charles R. Norris and Leonard L. McCants, Esq.)

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By:



ARTHUR B. HATTON

Executive Secretary

FINAL DATE OF ORDER:

6-16-77

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.